



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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JUN 08 2010

Ref: 8EPR-EP

Jason Gipson, Branch Chief
U.S. Army Corps of Engineers
533 West 2600 South, Suite 150
Bountiful, Utah 84010

Re: Action ID: SPK-1992-50255-UO

Dear Mr. Gipson:

The Environmental Protection Agency (EPA) Region 8 has reviewed the Public Notice for Action ID: SPK-1992-50255-UO (PN). The Applicant, Edwin Sunderland for the Sanpete Water Conservancy District, seeks authorization to construct the Narrows Dam and Reservoir on Gooseberry Creek in Sanpete County, Utah. The proposed reservoir would inundate approximately 84 acres of wetlands and five miles of streams totaling approximately 89 acres of waters of the United States. This project has been in planning for approximately 70 years and has been analyzed and commented on several times by EPA pursuant to our authorities under both the National Environmental Policy Act (NEPA) and Clean Water Act (CWA) Section 404. Most recently, the U.S. Bureau of Reclamation (BOR) issued a Supplemental Draft Environmental Impact Statement (SDEIS) in March 2010. EPA is providing separate comments to BOR on the SDEIS in accordance with our responsibilities under NEPA Section 102(2)(C) and Clean Air Act Section 309. It is EPA's opinion that the Narrows project *may have substantial and unacceptable impacts to aquatic resources of national importance* (ARNIs). This letter is being sent consistent with Part IV 3(a) of the Clean Water Act Section 404(q) Memorandum between EPA and the Department of the Army regarding Section 404(q) of the Clean Water Act, 33 U.S.C. 1344(q) (404(q) MOA).

Unacceptable impacts resulting from the proposed project include the direct loss of 84 acres of montane wetlands and five miles of cold water stream systems. Secondary impacts include the reduced flow from Scofield Reservoir to the Colorado River via the Price and Green Rivers resulting in higher salinity in the Colorado River at Imperial Dam.

Compliance with the CWA § 404(b)(1) Guidelines

Compliance with the CWA § 404(b)(1) Guidelines requires that impacts to aquatic resources be first avoided and minimized, and compensatory mitigation should be used only for impacts that cannot be avoided or minimized. These requirements are essential to meeting the object of the CWA to restore and maintain the chemical, physical and biological integrity of the nation's waters. The applicant must demonstrate that all appropriate and practicable steps to

avoid and minimize adverse impacts to the aquatic environment have been taken.

The SDEIS does not appear to comply with the Guidelines due to an improper alternatives (40 C.F.R. 230.10(a)) analysis and unacceptable water quality impacts to Scofield Reservoir (40 C.F.R. § 230.10(c)). A 10.8% projected increase in phosphorus concentration in Scofield Reservoir is expected to exacerbate existing problems with low dissolved oxygen, eutrophication and potential fish kills. Further, this projected increase is not consistent with the 2000 CWA Total Maximum Daily Load (TMDL) which recommended a 28% reduction in phosphorus loading to the reservoir. This increased concentration may result in the significant degradation of water quality in Scofield Reservoir.

40 C.F.R. § 230.10(a) Alternatives Analysis

According to the Guidelines, the Corps may not permit a project if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem so long as the alternative does not have other significant adverse environmental consequences. The SDEIS and PN do not provide an appropriate alternative analysis regarding the availability of less damaging practicable alternatives. The alternative analysis in the PN is limited to construction of varying sizes of the on-channel dam and reservoir at the same location of Gooseberry Creek. Although the SDEIS acknowledges other alternatives such as water conservation and some off-channel reservoir sites, these alternatives may have been dismissed from further consideration without proper analysis. Off-channel reservoir sites should be identified and considered in the range of practicable alternatives. Appendix B of the SDEIS lists possible reservoir sites, but they all appear to be on-channel and potentially as environmentally damaging as the preferred alternative. We understand that selecting a reservoir site other than the Narrows site may require renegotiation of the 1984 Compromise Agreement; however, this renegotiation is not a sole basis for determining that an alternative is not practicable.

40 C.F.R. § 230.10(c) Water Quality Impacts and Significant Degradation

According to the SDEIS, the proposed project may result in the increased concentration of phosphorus in Scofield Reservoir. The analysis contained in the SDEIS should be augmented with current data to determine the current status of phosphorus and dissolved oxygen in Scofield Reservoir (in accordance with the 2000 CWA TMDL).

Mitigation

After impacts to waters of the United States are avoided and minimized to the maximum extent practicable, mitigation must be performed for any remaining impacts. The SDEIS identifies mitigation expected to be performed; however, the analysis does not address all of the impacts proposed by the project. In particular, the PN does not identify mitigation for the loss of five miles of cold water streams. The Applicant must identify how these impacts are to be mitigated.

In view of the concerns presented above, including the failure to fully analyze all practicable alternatives including off-channel reservoirs, we believe the project is not in compliance with the CWA § 404(b)(1) Guidelines and the proposed action may have substantial and unacceptable impacts to aquatic resources of national importance; therefore, the current application should be denied. If you have any questions regarding these comments, please contact Brent Truskowski of my staff at 303-312-6235, or via e-mail at truskowski.brent@epa.gov.

Sincerely,



Humberto L. Garcia Jr., Director
Ecosystems Protection Program

Copy: Michael Jewell, USACE, Sacramento District
Suzanne Bohan, EPA Region 8, NEPA
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